

JUDGE CROTTY  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

08 CIV 5250

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JOHN CARFLEY,

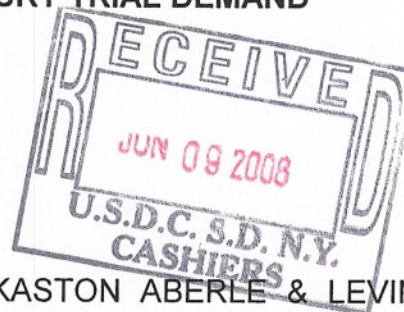
Plaintiff,

-against-

MICHAEL J. GALGANO,

Defendant.  
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**COMPLAINT AND  
JURY TRIAL DEMAND**



Plaintiff, JOHN CARFLEY, by his attorneys, KASTON ABERLE & LEVINE,  
complaining of the defendant herein, respectfully alleges as follows:

**JURISDICTION**

1. This is a civil action, seeking compensatory damages.
2. This action is brought pursuant to State Common Law. The amount in controversy exceeds \$75,000.00 as required by 28 U.S.C. §1332(a).
3. Jurisdiction is founded upon U.S.C. §1332(a)(1).
4. Plaintiff, invoking the pendent jurisdiction of this Court, seeks compensatory damages for negligence.

**VENUE**

5. Venue is properly alleged in the Southern District of New York in that the plaintiff resides within this District.

**JURY TRIAL DEMAND**

6. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

**PARTIES**

7. At all times relevant hereto, plaintiff, JOHN CARFLEY, was and is a natural person, resident in the County of Westchester, State of New York.

8. At all times relevant hereto, defendant, MICHAEL J. GALGANO, (hereinafter GALGANO) was and is a natural person, residing in Collier County, Florida.

**AS AND FOR A FIRST CAUSE OF ACTION  
AGAINST DEFENDANT GALGANO  
(NEGLIGENCE)**

9. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "8" hereinabove as if more fully set forth at length herein.

10. At all times hereinafter mentioned defendant, MICHAEL J. GALGANO, was the owner of a 2000 Honda motor vehicle bearing the State of Florida registration number X42JCT for the year 2007.

11. That on May 27, 2007, and at all times hereinafter mentioned defendant, MICHAEL J. GALGANO, operated the aforementioned motor vehicle.

12. At all times hereinafter mentioned, defendant, MICHAEL J. GALGANO, managed the aforementioned motor vehicle.

13. At all times hereinafter mentioned, defendant, MICHAEL J. GALGANO, maintained the aforementioned motor vehicle.

14. At all times hereinafter mentioned, defendant, MICHAEL J. GALGANO, controlled the aforementioned motor vehicle.

15. At all times hereinafter mentioned, defendant, MICHAEL J. GALGANO, repaired the aforementioned motor vehicle.



16. At all times hereinafter mentioned, defendant, MICHAEL J. GALGANO, inspected the aforementioned motor vehicle.

17. At all times hereinafter mentioned, plaintiff, JOHN CARFLEY, was the owner and operator of a 2005 Suzuki motorcycle bearing New York State registration number 98FE21 for the year 2007.

18. At all times hereinafter mentioned, State Route 218, near its intersection with Taft Avenue, Town of Cornwall, County of Orange, State of New York, was a public roadway and/or thoroughfare in common use by the general public.

19. That on May 27, 2007, defendant, MICHAEL J. GALGANO, was operating his aforesaid motor vehicle at the aforementioned location.

20. That on May 27, 2007, plaintiff, JOHN CARFLEY, was operating his aforesaid motorcycle at the aforementioned location.

21. That on May 27, 2007, the aforesaid motor vehicle owned and operated by defendant, MICHAEL J. GALGANO, struck the motorcycle owned and operated by plaintiff, JOHN CARFLEY, at the aforementioned location.

22. That on May 27, 2007, the aforesaid motor vehicle owned and operated by defendant, MICHAEL J. GALGANO, came into contact with the motorcycle owned and operated by plaintiff, JOHN CARFLEY, at the aforementioned location.

23. That at the above time and place, there was contact between the two aforesaid motor vehicles.

24. That as a result of the aforesaid contact, plaintiff, JOHN CARFLEY, was injured.

25. That as a result of the aforesaid contact, plaintiff, JOHN CARFLEY, was

seriously injured.

26. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the defendant without any fault or negligence on the part of the plaintiff, JOHN CARFLEY, contributing thereto.

27. That defendant was negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the defendant was otherwise negligent, careless and reckless in the premises.

28. That by reason of the foregoing, plaintiff, JOHN CARFLEY, sustained severe and permanent personal injuries and plaintiff, JOHN CARFLEY, was otherwise damaged.

29. That by reason of the foregoing culpable conduct and the negligence of the defendant, plaintiff, JOHN CARFLEY, sustained serious, severe and permanent personal injuries, still suffers and will continue to suffer, great physical and mental pain and serious bodily injury, became sick, sore, lame and disabled and so remained for a considerable length of time; and plaintiff, JOHN CARFLEY, was otherwise damaged.

30. By reason fo the foregoing, plaintiff has been damaged in the sum of One Million (\$1,000,000.00) Dollars.

**AS AND FOR A FIRST CAUSE OF ACTION  
AGAINST DEFENDANT GALGANO  
(MEDICAL BILLS)**

31. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "30" hereinabove as if more fully set forth at length herein.

32. Plaintiff, JOHN CARFLEY, was caused to sustain and incur medical bills and out-of-pocket expenses.

33. That this action falls within one or more of the exceptions as set forth in



CPLR §1602.

34. That by reason of the foregoing, plaintiff has been damaged in the sum of Fifty Thousand (\$50,000.00) Dollars.

WHEREFORE, plaintiff, JOHN CARFLEY, demands judgment against defendant, MICHAEL J. GALGANO, as follows:

FIRST CAUSE OF ACTION: One Million (\$1,000,000.00) Dollars;

SECOND CAUSE OF ACTION: Fifty Thousand (\$50,000.00) Dollars.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees.

Dated: Mineola, New York  
June 9, 2008

KASTON ABERIE & LEVINE

By: 

SCOTT L. WISS (SW 5236)

Attorney for Plaintiff  
259 Mineola Boulevard  
Mineola, New York 11501  
(516) 873-6400  
File #: JM 2941

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN CARFLEY,

*Plaintiff,*

*-against-*

MICHAEL J. GALGANO,

*Defendant.*

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SUMMONS IN A CIVIL ACTION  
COMPLAINT AND JURY TRIAL DEMAND

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**KASTON, ABERLE & LEVINE**

*Attorneys for Plaintiff*

*Office and Post Office Address, Telephone*

**259 MINEOLA BOULEVARD  
MINEOLA, NEW YORK 11501  
(516) 873-6400**

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Service of a copy of the within

is hereby admitted.

Dated

Attorneys for .....

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*S I R : - PLEASE TAKE NOTICE*

☐

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

NOTICE OF  
ENTRY

☐

that an Order of which the within is a true copy will be presented for settlement to the  
Hon. one of the judges of the within named court, at

NOTICE OF  
SETTLEMENT on

at AM.

Dated:

Yours, etc.,

**KASTON, ABERLE & LEVINE**

*Attorneys for Plaintiff*

*Office and Post Office Address, Telephone*

**259 MINEOLA BOULEVARD  
MINEOLA, NEW YORK 11501  
(516) 873-6400**